



State of Delaware
Commission on Forensic Science

Minutes - 2/12/18
10:00 am – 12:00 pm
DFS – 1st Floor Conference Room
200 South Adams Street
Wilmington, DE 19801

1. Welcome, Call to Order, and Introductions

- The meeting was called to order by Chair, Chief R.L. Hughes. In attendance were:

Voting Commission Members

DAG Barzilai Axelrod	Department of Justice
Secretary Rob Coupe	Department of Safety & Homeland Security – Vice Chair
Chief Randall L. Hughes	Delaware Police Chiefs' Council – Chair
Major Daniel Meadows	Delaware State Troopers Association
Representative John Mitchell	Delaware House of Representatives
Lisa Schwind, RN, Esquire	Office of Defense Services-Public Defender's Office
Anita Symonds, RN	Christiana Care
Krystal Hans, PhD	Assistant Professor - Delaware State University

Non-voting Attendees

Commission's Legal Support

DAG Caroline Cross	Department of Justice (substituting for DAG Lisa Morris)
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Additional Non-voting Attendees

Johna Esposito	DFS - Quality Assurance Manager
John Evans	DFS - Director
Jill Fredel	DHSS – Communications Director
Amrita Lal-Paterson	DFS – DNA Technical Leader
Rebecca Walker	DFS -- Chief Operating Officer

Absent Voting Commission Members

Senator Robert Marshall	Delaware State Senate
Secretary Kara Walker	Department of Health & Social Services

2. Approval of the Minutes

- Secretary Coupe stated that before the minutes are considered for approval, he would like to mention that in Director Evans' absence at our last meeting, his report, presented by Rebecca Walker, was one of the most positive reports to-date; it was outstanding. Also, he said, these minutes set the table for today regarding our path forward. Secretary Coupe then made a motion to approve the minutes and Anita Symonds, RN, seconded the motion. Hearing no objections, all other voting members in attendance unanimously voted to approve the minutes of the December 11, 2017 meeting.

3. DFS Director's Report

• **Staffing:**

- Director Evans said he is pleased to report that several new people have joined the DFS team since the last meeting on December 11th.
 - **Dr. Jennifer Swartz** as an Assistant Medical Examiner, **Johanna Gerisch** as a Forensic Investigator and **Reika Haskell** as an Analytical Chemist in the Forensic Chemistry Unit - all joined our team on January 8th. DFS welcomes each of them and we are glad to have them on board.
 - **Jency Skaria** joined us on January 22nd as an Analytical Chemist in the Forensic Chemistry Unit. With Jency now on board, DFS is at full complement in the Forensic Chemistry Unit with 13 bench chemists available for casework and two lab managers.
 - **Dr. Krolkowski** has obtained his DE medical license and he will be starting with DFS on March 5th.
- Director Evans reported that DFS currently has two vacancies:
 - **Forensic Evidence Specialist:** position was posted on February 2nd
 - **DNA Lab Technician:** due to a resignation. Interviews were conducted last week and interviews with more candidates will be conducted this coming week.

• **Forensic Chemistry Unit:**

- As reported at the meeting in December, the FCU began to accept drug evidence from all DE law enforcement agencies on December 14th. Thanks to the hard work and dedication of the FCU chemists, it can be reported that the process is running well and the FCU is managing the caseload effectively and efficiently in terms of meeting Court-established deadlines and keeping the backlog to a minimum.
- Adding six additional chemists to the FCU team, as well as the instrumentation and equipment to support them, has taken over a year but we are now in the position to independently accommodate all of the drug testing needs of the State with no need to outsource. This will not only result in a significant cost savings to the State, but also a more timely and efficient process with our partners in law enforcement, the Department of Justice and the Court system.

- Director Evans said he would like to go on the record and thank all of our State partners and the Commission for their support and patience during this process.

- **DNA Unit:**

- There was a total of approximately nine **CODIS hits** or matches both at the local and National level since our last meeting. Six of those hits were as a result of the Sexual Assault Kit Initiative (SAKI).
- The DNA Unit continues to see an increase in casework and one thing that they are keeping an eye on is the number of sexual assault kits in the custody of law enforcement agencies awaiting submission to DFS for testing. Amrita Lal-Paterson, DNA Technical Leader, continues to work closely in this regard with both the police agencies and Mike Kelly, who is the SAKI coordinator (a 2017 DOJ directive was sent through the Police Chiefs' Council to LEAs providing criteria for kit submission).

- **Toxicology Unit:**

- The Tox Unit continues to see an increase in the number of cases received and again, due to the hard work and dedicated staff in the Tox Unit, they continue to meet the demands and effectively manage this increased caseload.
- In mid-January, Jessica Smith, our Chief Toxicologist, had the opportunity to attend the Drug Recognition Expert training hosted by the Newark Police Dept. This is an intense two-week training regimen and has afforded Jessica a new and different perspective, which will greatly benefit her in her role as the Chief Toxicologist. Director Evans thanks the Newark PD for their kind invitation to allow her to attend.
- Director Evans said he is proud to report that Jessica Smith has recently become board certified with the American Board of Forensic Toxicology as a diplomate in Forensic Toxicology. This was a huge personal accomplishment for Jess and we congratulate her.

- **Medical Examiner Unit:**

- As of the end of November 2017, there were **318 confirmed deaths certified as accidental drug deaths**, with approximately 39 cases needing to be finalized.
- Director Evans said he would like to recognize and thank the M.E. Unit for not only continuing to meet the increased demands in terms of casework, but also assisting with all that is needed to prepare for the upcoming morgue renovation.

- **Morgue Renovation Project:**

- Director Evans said that he checks weekly with Facilities Management and the project is still slated to begin any day now. All bids have been awarded to several different contractors and it is now a matter of completing the necessary paperwork, signatures, etc.
- As eluded to earlier, there are many things on our end that we need to complete before the project actually begins:

- A Conex storage box (8'x16') has been delivered to the Georgetown facility and we are in the process of relaying pathology supplies to store there, which will be needed once the autopsy operations shift to that location.
- As time allows, the M.E. Unit is also in the process of moving other equipment, sample jars, etc., from the autopsy suite and storing it temporarily in the Annex Building.
- Director Evans said he is awaiting final signatures on an MOU between the New Castle County Government and the Department of Safety and Homeland Security to move forward regarding the use of a County building as an off-site location to hold decedents immediately before and after autopsy.
- Once the MOU has been signed, DFS will be working with Facilities to install the needed power sources for a portable refrigerated unit, as well as making minor building modifications to satisfy operational needs and chain of custody (camera installation, locked unit, secure building, stone driveway, etc.).
- When the MOU is signed and a start date given for the project, DFS will contact an identified vendor to lease the portable refrigerated unit.
- Upon determination of a start date, DFS will make formal notification to our partners, including the Police Chiefs' Council, the Funeral Home Association, the DOJ, etc., in terms of the morgue shutdown and the operational plan during the shutdown.
- Director Evans said the project is expected to be three to six months in duration and, as he has been saying for the past year, it will have a significant impact on our autopsy operations. DFS is aware of the impact and is in the process of making operational plans in an effort to minimize that impact. DFS remains focused on continuing to provide the level of service that is expected and deserved to our partners during the shutdown.

- **Other Points of Interest:**

- The 2017 DFS customer survey has been completed. The entire survey has not yet been reviewed, but Director Evans said he will be doing so collectively with the leadership team in the near future. There were approximately 36 respondents.
- On February 6th & 7th, the ANAB External On-Site Audit was conducted at DFS. The audit was successful with only two small issues of non-conformance. Director Evans said he would like to especially recognize and thank Johna Esposito for taking the lead on seeing this through. Director Evans then asked Johna to briefly comment on the two issues of non-conformance. Ms. Esposito said that the two findings under the ISO 17025 Standard were:
 - Section 4.15.2: The follow-up items from the Senior Management meeting did not reflect a pre-agreed upon time for completion. We showed that the items had been completed but we did not have in our notes "this item will be completed by "x" amount of time". Ms. Esposito said that future senior management meeting notes will contain a pre-agreed upon follow-up time of one month on all action items, unless otherwise specified

- Section 5.10.1: The auditor noted that the reporting within FLIMS worksheets in Forensic Chemistry Unit, where they record results from a preliminary presumptive positive color test, is ambiguous. The tests in question are really only used in their unit to determine what the next step is to be of testing and are not used to identify results on the report. The ambiguity comes from the fact that, while there are three tests with three color results (for example blue, orange, and pink), there is only one dropdown box to say positive or negative. Because the standard says results must be recorded unambiguously, this was a finding. It is unclear if the positive identification refers to one positive color test or if all three color tests must be positive for a positive to be indicated. Ms. Esposito said this was a paper fix and the SOP for color testing will have an additional section that defines what the positive means.
- Director Evans then shared an example of not only the good work, but the impactful work that goes on at DFS. On January 20th, the M.E. Unit was called to assist the DSP in locating a clandestine grave in the Smyrna area. The grave was located, and with the assistance of the Delaware State Police, skeletonized human remains were successfully exhumed. The DNA Unit completed a DNA analysis on the remains in a timely manner and positively identified them as belonging to a person who had been reported missing in January 2015. These efforts of the DSP, the M.E. Unit and the DNA Unit were able to bring closure to the family and their work is to be commended. Major Meadows echoed thanks to DFS personnel for their assistance in this case in providing not only support, but closure for that family.
- Chief Hughes asked for the number of casual/seasonal employees currently with DFS. Director Evans said DFS casual/seasonal positions remain the same, approximately 10% of the workforce are casual/seasonal employees (~70 fulltime employees) and that is across all four disciplines. He said that supplementing our fulltime forensic investigator staff is critically important to operations. Chief Hughes said his concern is for those casual/seasonal FI's who work on-call and off-shifts who may be called to court. Director Evans answered that to his knowledge, no forensic investigator has yet been called to the courtroom, however, he does not consider this would be a major problem. In fact, said Director Evans, to aid in communications and turnover, the Medical Examiner Unit employees have reinstituted morning rounds; everyone meets down in the Morgue and they go over pending cases and then tasks are delegated which allows for a smooth transition each day.
- Chief Hughes asked the status of turnaround times since the FCU took on the responsibility for all testing on February 14th. Director Evans said with FCU being at full complement for the first time, he is cautiously optimistic. All cases have been completed by their due date and there is zero backlog at this time. Chief Hughes asked if the additional bench and office space needs are being met. Director Evans said it is working out; the FCU have been able to accommodate everyone with desk and bench space.
- Chief Hughes said Director Evans reported that six of the nine CODIS hits were the result of the SAKI initiative and asked the age of the kits. DNA Technical Leader, Amrita Lal-Paterson, responded that anything processed prior to 2015 is included in the initiative. Chief Hughes then asked from what Ms. Lal-Paterson knows, are we getting caught up. Ms. Lal-Paterson said, no, and this is why she is meeting with Mike Kelly because anything from May 2015 and on, will need to be tested, possibly by us.

Ms. Lal-Paterson said there are still many kits to be tested, perhaps 40 at Troop 2, 50 at [Dover](#) and perhaps 20-30 at New Castle County. Ms. Lal-Paterson said that Mike Kelley thinks there may be another SAKI Grant in the works but is not sure.

- Chief Hughes said he would like to hear more about Jessica Smith's board certification with the American Board of Forensic Toxicology. Director Evans responded that he was hoping Jessica would be here today to share additional information. He does know that she did this on her own initiative and studied on her own time. Director Evans said he is aware this was a very challenging curriculum and that her being a board certified forensic toxicologist is a plus for DFS. He said that in one of the N.A.M.E. accreditation standards, it recommends that the Chief Toxicologist be board certified. Director Evans gave kudos to Jessica; he said she took on this certification herself and brings DFS into full compliance with that particular N.A.M.E. standard.
- Chief Hughes asked if there were any security issues with having the M.E. storage at Georgetown. Director Evans responded that this is a lockable Conex box containing pathology supplies. Chief Hughes then asked if there are exterior cameras there; Director Evans replied, no, not at Georgetown.

3. Commission's Purpose and Objectives for 2018

- Chief Hughes recalled that at our last meeting, all Commission members were asked to review the tasks assigned in Title 29 - § 4714(d) and to share ideas/suggestions today. Ms. Anita Symonds then handed out a copy of "Title 29 - § 4714 Commission on Forensic Science" showing the eight tasks outlined for the Commission. Chief Hughes said that one of the things discussed previously was whether or not this Commission was viable/relevant and he believes it is viable and relevant. He said the Commission needs to exercise some of that relevancy at Legislative Hall and/or any other partners out there to inform them of what goes on at our meetings and at DFS.
- ODS Schwind stated that in reading over our Delaware statute, it seems that it is just directed at this agency. She said that other states take a broader view and get involved in other forensic areas. She thinks, however, up until this point, the Commission has been very limited due to the building issues and such, and at this time, should stay limited and just focus on DFS. However, she said, in the future the Commission should then begin looking at what can be done collectively to have the vision of moving the State's scientific community under one roof realized.
- Chief Hughes agreed with ODS Schwind and said he is aware of a very good forensics model used in Virginia. He said although the Commission is not ready to go down that road yet, the Commission's work does not end with the building modifications completed here. He said, in fact, that is when the real work will begin; where our relevancy is to stay focused on having all forensics under one roof for the benefit of all citizens in Delaware.
- Chief Hughes suggested the Commission review the eight tasks individually and asked Director Evans if he would read each one and have Commission members respond after each task is read.

1. Evaluate and monitor the needs of the Division to ensure that it is able to provide accurate, timely and responsive forensic science services to all members of the criminal justice community.
 - ODS Schwind said that this is being done; the Commission receives regular reports regarding case backlog, staffing, etc. Chief Hughes agreed but in response to these reports, it should be asked what is it that we can do as a Commission -- that is the next step. He said that we are fortunate to have two cabinet secretaries and two folks from the General Assembly as part of our membership so that gives us a voice but we, as a Commission, should meet with the General Assembly leadership to move our ideas forward.
 - Director Evans added that with respect to Item 1, he thinks the Commission played a significant role, with the support of the Cabinet Secretaries, in providing and transitioning the six fulltime positions, associated instrumentation and training in an effort to be able to accommodate the State's forensic science needs.
 - Major Meadows said that although he has not lived through the entire life cycle of this Commission, as he came in a little later in its progression, it appears that a number of these items, such as 1, 2, 3, 5, and 8, were probably high priority items at the time of the Commission's inception, however, each may now turn into more of a maintenance item. He said the Commission should today be able to move to the next logical chapter as far as strategic planning and other ways of developing partnerships in the state where the Commission may be able to contribute.
 - Major Meadows then asked if the Commission is talking about consolidation of functions well beyond what occurs presently in this facility, as there are things that are done within the DSP Crime Lab that are forensic in nature. ODS Schwind said she thinks so; members of the Commission took quite a few field trips to other forensic science facilities and firearms and fingerprinting, etc., were under their forensic science roof. Chief Hughes said there are a number of models out there whereby if it's forensic, it's all under one roof; the idea being that they would be able to leverage all different disciplines to make the forensics better and let the science speak the truth.
2. Evaluate and monitor the needs of the Division as may help preserve the independence of judgment and the integrity of all scientific undertakings by the Division and its personnel;
 - Chief Hughes said this item was addressing a lot of the accreditation pieces and DFS has obtained them. In getting the accreditations, DFS got where it needed to be. Chief Hughes said that these accreditations bring constant feedback. At the end of the day, he thinks the Commission's biggest job is to help insure that the resources are available and that folks are made aware of any potential shortcomings that may appear, and at the same time, singing the praises of what has and is occurring at DFS. Chief Hughes thinks this item is still relevant.

3. Evaluate and monitor the human resource needs and the personnel and hiring practices of the Division;
 - Chief Hughes said this is self-explanatory and has been/is being addressed.
4. Receive and consider input from all stakeholders in the criminal justice community, including, without limitation, prosecutors, defense attorneys, the courts, law enforcement, victims' advocates, the Domestic Violence Coordinating Council, the Child Death, Near Death and Stillborn Commission, and other interested persons or parties;
 - Director Evans said that DFS has people from our Division who sit on some of these committees. Ms. Symonds asked if the members of the committees know how to contact the Commission. She does not think there is a clear path set up for anyone if they want to contact the Commission. She thinks there should be a pathway, perhaps on-line, that would offer open communication for people to contact the Commission. Representative Mitchell said he thinks we have been lax in providing information to our stakeholders and proposed that the Commission, at some point, hold a meeting and let them know the Division of Forensic Science as it is today and also what the Commission has done. Chief Hughes suggested the Commission host an "information sharing" day and invite some of these stakeholders here. Secretary Coupe said that he, Major Meadows and Director Evans serve on other Commissions/Committees and he suggested that if members want something to be about "the Commission", he encourages members to attend some of these meetings held by our stakeholders. A long discussion ensued about the need to put forth information about the Commission and hosting a presentation for our stakeholders.
 - Director Evans said he would like to make it clear that on a day-to-day basis, DFS has open, direct, and timely communication with all the folks mentioned here. He said also that the Commission meetings are posted on the State's public website and any member of the community may reach out directly to the Commission and attend a meeting. He continued that DFS also looks for feedback through the customer survey which is sent to all of our stakeholders. DFS encourages honest feedback and the DFS leadership does review all responses and develop action plans to resolve any issues.
5. Evaluate and monitor the quality assurance structure and processes, including chain of custody practices for drug evidence;
 - Chief Hughes said this is being done and DFS is currently where they need to be.
6. Evaluate and monitor professional competency and accreditation requirements and staff management policies;
 - Chief Hughes acknowledged that DFS has come a very long way with accreditations and are now actually doing what their policies state. Director Evans said that although the State has not been able to provide everyone with increases in salary, DFS has been addressing employees' professional development, with the support of the Secretary, and great training opportunities are now being provided for DFS staff.

- ODS Schwind said that DFS has not reported any CARs (Corrective Action Reports) in a very long time. She said the operative word here with this task, is “monitor” and if nothing is being reported, how can the Commission monitor if they are not made aware. ODS Schwind said it should be noted in the minutes even if there are no CARs so that there is a record that this item is being addressed. For the record, said Director Evans, to-date there have been no reportable CARs.
 - A long discussion then ensued regarding how DFS employees can report problems or raise awareness if something is amiss. The Commission concluded there is already an adequate internal process set up for all State employees to follow. Additionally, noted Director Evans, the DFS leadership team has put into place the fostering of a culture of accountability, clear expectations, and open communication. Within the last couple months, everyone in this division has received an updated Performance Plan and have signed off on it so that it is clear to each employee what the expectations are, which is what everyone wants to know when working here. Furthermore, he said, at the end of January, each employee signed off on their Performance Review so everyone is being held accountable to their Performance Plan and this has not always been done in the past. Director Evans thinks this lends itself to a healthier, happier work environment when employees know what is expected of them and they know that their peers and their supervisors are going to be held accountable to those plans. He said his every hope is that as DFS continues to foster this environment, everyone will feel comfortable sharing good things, bad things -- whatever needs to be shared -- and that the matter will be addressed and everyone will be held accountable.
7. Review and comment upon all rules and regulations promulgated pursuant to §4702 of this title; and
 8. Suggest and support the implementation of improvements to the operations of the Division or its communications and cooperation with other agencies of state and local government.”
 - Chief Hughes said he thinks this refers back to our discussion on Item 4 and has been addressed.
 - Chief Hughes then asked Commission members for any further comments on these eight tasks. Secretary Coupe said he would like to go back to the beginning of “Title 29 - § 4714, Section a” concerning the make-up of the Commission. He suggested the Strategic Planning Advisory Committee should look if there are other stakeholders who should be made a part of this Commission. Secretary Coupe thinks that his position was initially included as a member because of the transition. However, he said, at this point, he thinks he should function as a guest of the Commission to hear concerns, not necessarily interjecting in the conversations. Chief Hughes agreed and said perhaps now is the time to look at the make-up of the Commission. DAG Axelrod said he will make this an item to be explored by his committee and will report back on their findings. Secretary Coupe suggested Lydia Massey be contacted to learn the expiration date of Commission appointments.

4. Standards & Certifications Advisory Committee

- Johna Esposito reported the committee met 2/12/18 and came up with a list of focus items, i.e., increasing salaries, employee service longevity and establishment of career ladders within the laboratory positions. She said their goal is to have a report for the Commission by summer for review and comment. As a result of the Commission's feedback, the committee will decide what to pursue; i.e. what is most feasible, and then work more in depth on those items.

5. Strategic Planning Advisory Committee

- DAG Axelrod reported that the committee did have a meeting on 1/8/18 and has ultimately realized they were a little too ambitious saying a report would be generated by summer. DAG Axelrod explained that the committee does not have the structure expertise when it comes to how many square feet for how many people. They are trying to pool resources and have reached out to look at other forensic facilities' data and piggy back off of that, but it is taking a little longer to do than first anticipated.
- Director Evans added that previously there was no record of the size of the DFS facility so our Maintenance Technician took quite a bit of time and has determined its square footage. As DAG Axelrod noted, he said, Dr. Fowler from Maryland had a formula; i.e., looking at the number of people that were needed in each discipline and then multiplying it out in terms of parking space, bathroom space, bench space, etc. Director Evans noted that before we can go any further, it should be determined what the actual needs would be for a forensic facility.

7. Commission Members Open Discussion

- Director Evans suggested that when the Strategic Planning Advisory Committee gets together about the make-up of the Commission, they would consider bringing on someone from Facilities Management and would reach out to Director Svaby about it.
- Representative Mitchell asked if the Commission went into Executive Session at the last meeting as he is not aware of any follow-up. DAG Cross said it must be on the meeting agenda prior to the meeting in order to hold an Executive Session and it was not included on the 2/12/18 meeting agenda. DAG Cross said it will be included in the 4/9/18 Agenda.
- Jill Fredel, DHSS Communications Director, thanked DFS, on behalf of Secretary Walker, for all of the data mining and sharing regarding the opioid epidemic. She then said due to the upcoming DFS renovations and lack of parking available, DHSS would like to offer the chapel building at Herman Holloway Campus to be used for the Commission meetings during this renovation.

Adjourn

- Hearing no other questions/concerns, Chief Hughes asked for a motion to adjourn the meeting. Representative Mitchell made the motion; Secretary Coupe seconded. All other voting members in attendance unanimously agreed to adjourn.

Next Meeting Date: Monday, June 11, 2018
DFS – Wilmington, 1st Floor Conference Room
10:00 am – 12:00 am

FINAL